



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 32749688

Date: AUG. 16, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a dance professional, seeks classification as an individual of extraordinary ability. Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner met the initial evidence requirements for the classification by establishing the Petitioner's receipt of a major, internationally recognized award, or by meeting three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

## I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a

major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). 6 *USCIS Policy Manual* F.2, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

## II. ANALYSIS

The Petitioner is a dance professional who competes in dance competitions and is involved in dance-related artistic work as a choreographer and a dance coach. The record includes documentation to demonstrate the Petitioner's activities as a dance professional in various international settings. The Petitioner intends to continue to pursue his career in "dancesport."

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Director determined that the Petitioner met two of the regulatory criteria by providing evidence of his participation as a judge of the work of others in his field of expertise, and through the artistic display of his dancesport. *See* 8 C.F.R. § 204.5(h)(3)(iv) and (vii). On appeal, the Petitioner asserts that he also meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii), (v), (viii), and (ix). The Petitioner states that the Director did not provide a full analysis of the evidence submitted or sufficiently consider certain evidence. As more fully discussed below, we conclude that the Petitioner has satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(iii). Because the Petitioner has shown that he satisfies at least three criteria, we will remand the matter to the Director to evaluate the totality of the evidence in the context of a final merits determination to determine whether the Petitioner has demonstrated his sustained national or international acclaim, his status as one of the small percentage at the very top of his field of endeavor, and that his achievements have been recognized in the field through extensive documentation.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii)

The plain language of this criterion requires evidence (1) of published material, (2) that the published material contains the title, date, and author of the material, and any necessary translation, (3) that the published material is about the Petitioner relating to the Petitioner's work in the field, and (4) that the published material qualifies as professional or major trade publications or other major media. The

petitioner's evidence must satisfy every one of these elements to meet the plain language requirements of this criterion.

Evidence of published material in major media publications about the Petitioner should establish that the circulation (online or in print) or viewership is high compared to other statistics and identify the intended audience. Further, for purposes of this criterion, while published material need not be primarily or only about a petitioner to qualify, it cannot be solely about their employer or another organization with which they are associated. *See generally* 6 USCIS Policy Manual at F.2.

The record includes copies of several articles, published either digitally or in print, by media in the Petitioner's country of origin, which discuss or mention the Petitioner and his work. The Director acknowledged that an article, [REDACTED] published in a general news publication, *The Star* [S-], partially met the plain language of this criterion as the article included the title, date and author of the article, and discussed his work in the field. (We observe that the Petitioner also initially submitted another article published in S-'s digital version, [REDACTED] [REDACTED] which includes the same qualifying aspects as the article discussed by the Director in the denial.) The Director, denied the petition, concluding in part that as S- did not qualify as major media, S-'s published articles about him did not meet the plain language of this criterion.

On appeal, the Petitioner asserts that the Director erred in determining that S- did not qualify as major media, and that he is eligible for this criterion based on these and other articles. Based on our de novo review of the record we conclude that there is sufficient evidence from a variety of sources that suggests more likely than not, that S- was a major media outlet in the Petitioner's home country when the articles about the Petitioner were published in 2019. For instance, R-'s Digital News Report 2020 indicates that S- ranked 5<sup>th</sup> for general news media in the Petitioner's country in that year, while a report about S- from a data analytics firm, S-W-, shows that S- ranked 4<sup>th</sup> for news media there in 2023. We also note that according to SCImago Media Rankings, S- ranked 5<sup>th</sup> in that nation for general news media in 2023 - when the petition was filed, and S- currently ranks 1<sup>st</sup> for such media in that country. *See generally* <https://www.scimagomedia.com/rankings.php>. We therefore agree with the Petitioner that he meets this criterion, and the Director erred in concluding otherwise.

For the reasons discussed above, we will withdraw the Director's decision and remand the matter for further review and entry of a new decision. Because the Petitioner has established his qualifications under criteria at 8 C.F.R. § 204.5(h)(3)(iii), (iv), and (vii), on remand, the Director should conduct a final merits review of the evidence of record.

The Petitioner seeks a highly restrictive visa classification, intended for the handful of individuals at the top of their respective fields. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). As contemplated by Congress, the Petitioner must demonstrate the required sustained national or international acclaim, consistent with a "career of acclaimed work in the field." H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act.

The new decision should include an analysis of the totality of the evidence evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, his status as one of the small percentage at the very top of his field of endeavor, and that his

achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. We express no opinion regarding the ultimate resolution of this case on remand.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.